IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WA.No. 1721 of 2007

THE JUDGEMENT IN WPC.14728/2007 Dated 20/06/2007

APPELLANT: PETITIONER IN WP

V.RAMACHANDRA REDDIAR,
MANAGING PARTNER, VEERIAH CINE HOUSE,
YMCA ROAD, ALLEPPEY.

BY ADV. SRI.PREMCHAND R.NAIR
SRI.TOJAN J. VATHIKULAM

RESPONDENT: RESPONDENT IN WP

THE ASSISTANT PROVIDENT FUND
COMMISSIONER (ENFORCEMENT),
EMPLOYEES PROVIDENT FUND ORGANISATION SUB REGIONAL
OFFICE, 36/685 A BHAVISHYANIDHI BHAVAN,
P.B.NO.1895, KALOOR, KOCHI.

BY STANDING COUNSEL SRI.S.GOPAKUMARAN NAIR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1721 OF 2007

Dated this the 16th July, 2007

JUDGMENT

H.L.DATTU, C.J.

Ext.P15 order is passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act'). Exts.P16 and P17 are the demand notices issued pursuant to Ext.P15 order. Aggrieved by the orders passed under Section 7A of the Act and the notices of demand issued pursuant to the aforesaid order were the subject matter of W.P.(C) No.14728 of 2007.

2. Learned single Judge, taking a very sympathetic view of the matter, has entertained the Writ Petition and has granted certain reliefs to the petitioner. The petitioner is not satisfied with the order so passed. Therefore, he is before us in the present appeal.

3. In our opinion, first and foremost, the learned single Judge ought not to have entertained the Writ Petition for the simple and sole reason that if, for any reason, the appellant/petitioner was aggrieved by the orders passed by the competent authority under Section 7A of the Act, he has got a right of appeal as provided under Section 7-I of the Act. The appeal remedy so provided in the Act is not only effective but also an efficacious remedy. Bypassing that remedy the petitioner would not have approached this Court.

4. A writ petition would lie if an order is passed by an authority

would affect the fundamental rights of a citizen or if an order is passed in excess of its jurisdiction. None of those elements are present in the instant case. Therefore, the learned single Judge ought not to have entertained the Writ Petition filed by the appellant/petitioner.

5. In view of the above, we set aside the impugned judgment rendered by the learned single Judge. We direct the appellant, if he so desires, to question the correctness or otherwise of the orders passed by the competent authority in exercise of their powers under Section 7A of the Act.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/